

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

P.Q. Docket No. 09-0195

In re: ATLANTICA FOOD IMPORTS, INC.,

Respondent

**DEFAULT DECISION AND ORDER**

This is an administrative proceeding for the assessment of a civil penalty for a violation of the Plant Protection Act (7 U.S.C. §7701 *et seq.*)(Act) and the regulations promulgated thereunder (7 C.F.R. §§ 319.56 *et seq.*)in accordance with the rules of practice applicable to this proceeding (7 C.F.R. § 1.130 *et seq.* and 7 C.F.R. § 380.1 *et seq.*). The proceeding was instituted by a complaint filed on September 14, 2009 by the Acting Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture. The complaint alleged the following:

1. On or about September 24, 2004, the respondent imported from the Dominican Republic into the United States 26 cartons of restricted valor beans without declaring them at the port of first arrival, JFK Airport, Jamaica, New York, in violation of 7 C.F.R. § 319.56-3(d).

2. On or about April 4, 2005, the respondent imported from the Dominican Republic into the United States 12 cartons of restricted valor beans without declaring them at the port of first arrival, JFK Airport, Jamaica, New York, in violation of 7 C.F.R. § 319.56-3(d).

The respondent failed to file an answer to the complaint within the time prescribed in 7 C.F.R. § 1.136(a). Section 1.136(c) of the rules of practice (7 C.F.R. § 136(c)) provides that the failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) shall be deemed an admission of the allegations in the complaint. The failure to file an answer also constitutes a waiver

of hearing. 7 C.F.R. § 1.139. Accordingly, the material allegations in the complaint are adopted and set forth herein as the Findings of Fact, and this Decision is issued pursuant to section 1.139 of the rules of practice applicable to this proceeding. 7 C.F.R. § 1.139.

### **Findings of Fact**

1. Atlantica Food Imports, Inc., respondent herein, is a business incorporated in the state of New York whose mailing address is 81 Pondfield Road, 266, Bronxville, New York 10708.

2. On or about September 24, 2004, the respondent imported from the Dominican Republic into the United States 26 cartons of restricted valor beans without declaring them at the port of first arrival, JFK Airport, Jamaica, New York, in violation of 7 C.F.R. § 319.56-3(d).

3. On or about April 4, 2005, the respondent imported from the Dominican Republic into the United States 12 cartons of restricted valor beans without declaring them at the port of first arrival, JFK Airport, Jamaica, New York, in violation of 7 C.F.R. § 319.56-3(d).

### **Conclusions of Law**

1. The Secretary has jurisdiction in this matter.

2. By reasons of the facts contained in the Findings of Facts above, the respondent has violated 7 C.F.R. §§ 319.56 *et seq.*).

### **Order**

The respondent is hereby assessed a penalty of twelve thousand and five hundred dollars (\$12,500.00). This penalty shall be payable to the “Treasurer of the United States” by certified check or money order, and shall be forwarded within thirty (30) days from the effective date of this Order to:

APHIS  
P.O. Box 979043  
St. Louis, Missouri 63197-9000

Respondent shall indicate that payment is in reference to P.Q. Docket No. 09-0195.

This Order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Decision and Order upon respondent, unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to this proceeding. 7 C.F.R. § 1.145.

Done at Washington, D.C.,  
January 6, 2010

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**PETER M. DAVENPORT**  
Acting Chief Administrative Law Judge